



# MBank Lincoln Centre

A Momentum Bank

February 3, 1986

John F. Ammons  
Senior Vice President

Ms. Mildred Lee  
Interstate Commerce Commission  
Washington, D.C. 20423


Re: Recordation # 14884

Dear Ms. Lee:

Per our conversation of January 23, 1986, I am enclosing a notarized copy of the management agreement between Trinity Railcar Management Company and Robert Wallace with supporting correspondence. I have also enclosed a \$10.00 filing fee. Please file this agreement and cross-index it, as we previously discussed.

Thank you.

Sincerely,

  
John F. Ammons  
Senior Vice President

JFA/mk

enclosures

RECORDATION # 14884-A  
FEB 26 1986 -9 30 PM

INTERSTATE COMMERCE COMMISSION

2/26/86  
10:00  
FEB 26 1986  
WASHINGTON, D.C.



# **MBank** Lincoln Centre

A Momentum Bank

February 14, 1986

John F. Ammons  
Senior Vice President

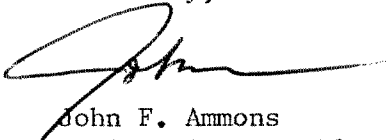
Ms. Mildred Lee  
Interstate Commerce Commission  
Recordation Unit, Rm 2303  
12th and Constitution Ave. N.W.  
Washington, D.C. 20423

Dear Ms. Lee:

As you requested, enclosed is a 2nd copy of the Trinity Railcar Management Company agreement with Robert Wallace.

Thanks.

Sincerely,



John F. Ammons  
Senior Vice President

JFA/mk

enclosure



**MBank Lincoln Centre**  
A Momentum Bank

RECORDATION NO. 14884-14884-A  
FEB 26 1986 -9 30 PM

John F. Ammons  
Senior Vice President

January \_\_, 1986

James H. Bayne, Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Re: Documents for Recordation

Dear Secretary:

I have enclosed an original and one counterpart of the document described below, to be recorded pursuant to 49 U.S.C. § 11303. That document is a Security Agreement, a primary document, dated December 30, 1985.

We request that this assignment be cross indexed with:

Trinity Railcar Management Company  
P.O. Box 10587  
Dallas, Texas 75207

which company may have a continuing interest in the equipment covered by the document in the form of a management agreement which is not involved in this particular assignment.

The names and addresses of the parties to the documents are as follows:

Pledgor: Robert R. Wallace  
30 1/2 Highland Park Village, Suite 12  
Dallas, Texas 75205

Pledgee: MBank Lincoln Centre, N.A.  
5400 LBJ Freeway, Suite 150  
Dallas, Texas 75240

A description of the equipment covered by the document is as follows:

Nineteen 23,500 gallon capacity 100 ton railroad tank cars bearing the numbers RTMX 2572, RTMX 2573, RTMX 2574, RTMX 2575, RTMX 2576, RTMX 2577, RTMX 2578, RTMX 2579, RTMX 2580, RTMX 2581, RTMX 2582, RTMX 2583, RTMX 2585, RTMX 2586, RTMX 2587, RTMX 2588, RTMX 2589, RTMX 2590 and RTMX 2593, which cars, without limiting the scope of the liens taken, were allegedly purchased from Richmond Tank Car Company as evidenced by bill of sale dated August 10, 1977;

Mr. James H. Bayne  
January \_\_, 1986  
Page Two

Five 23,500 gallon nominal capacity general purpose railroad tank cars, class DOT111A100W3, exterior coiled and insulated, 100 ton roller bearing trucks bearing the numbers RTMX 12113, RTMX 12115, RTMX 12116, RTMX 12117 and RTMX 12118, which cars, without limiting the scope of the liens taken, were allegedly purchased from C. A. Rundell, Jr. as evidenced by bill of sale dated January 27, 1983; and

Eleven 4,750 cubic foot capacity, 100 ton covered hopper railroad cars bearing the numbers PLMX 11081, PLMX 11155, PLMX 11156, PLMX 11157, PLMX 11158, PLMX 11159, PLMX 11160, PLMX 11161, PLMX 11162, PLMX 11163 and PLMX 11164.

A fee of \$10.00 for filing a primary document is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to our attorney, Russell A. Fink, Hughes & Luce, 1300 Two Lincoln Centre, Dallas, Texas 75240, telephone number 214/386-7000.

A short summary of the document to appear in the index follows:

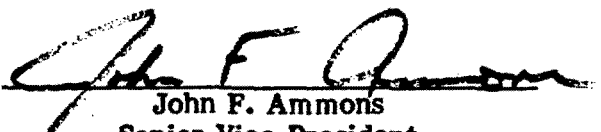
Security Agreement between Robert L. Wallace, as pledgor, and MBank Lincoln Centre, N.A., 5400 LBJ Freeway, Suite 150, Dallas, Texas 75240, as pledgee, dated December 30, 1985 and covering twenty-four 23,500 gallon capacity, 100 ton railroad tank cars and eleven 4,750 cubic foot capacity, 100 ton covered hopper railroad cars.

Should you have any questions, please contact our above listed attorney.

Very truly yours,

MBANK LINCOLN CENTRE, N.A.

By:



John F. Ammons  
Senior Vice President

14884-A  
RECORDATION NO. 14884-A

RAILROAD CAR  
MANAGEMENT AGREEMENT

FEB 26 1986 -9 30 PM

THIS MANAGEMENT AGREEMENT ("Agreement"), by and between Trinity Railcar Management Company, a Texas corporation ("TRMC" or "Manager"), having its principal place of business at 4001 Irving Boulevard Dallas, Texas 75247 and Robert R. Wallace ("Customer"), of 30 1/2 Highland Park Village, Suite 12, Dallas County, Dallas, Texas 75205:

WITNESSETH:

WHEREAS, Manager is engaged in the business of owning, leasing, and managing railcars for itself and others and Customer desires to retain manager to manage cars owned or leased by it on the terms and conditions set forth in this agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and conditions set forth herein, the parties hereto agree as follows:

ARTICLE I  
Appointment

1. Customer hereby appoints TRMC to manage and otherwise supervise the operation of the railcars as set forth on Exhibit A hereto (the "Railway Equipment") in the name of the Customer, or in the name of TRMC but for the account and on behalf of the Customer, pursuant and subject to the terms and conditions set forth in this Agreement.

2. TRMC hereby accepts the appointment set forth in Paragraph 1 of this Article I and agrees to perform the duties and obligations set forth herein. Customer acknowledges and agrees that, whereas TRMC has accepted the responsibility of managing the Railway Equipment, except as specifically set forth herein to the contrary or as provided by law, TRMC shall have the sole function and operative judgment, to be exercised in a reasonable manner, for the leasing, operation and management of the Railway Equipment and for establishing and implementing policies and standards of leasing, operation, service, maintenance, repair, reporting and other such policies and standards affecting the Railway Equipment or the operation, maintenance or repair thereof. TRMC shall be entitled to rely upon written or oral instructions received from Customer as to any and all acts to be performed by TRMC.

ARTICLE II  
Customer's Covenants and Responsibilities

1. Effective on the date hereof, Customer does hereby deliver and release to TRMC the Railway Equipment for the management thereof by TRMC, and TRMC acknowledges delivery and receipt thereof.

2. Except as provided below, Customer shall be responsible for the payment of all expenses incurred in connection with the Railway Equipment, including maintenance and repairs, cleaning, ad valorem and other taxes (as provided in Paragraph 3 of Article II), freight, storage, design changes and other modifications required by governmental or industry regulations or technological changes, deductibles under insurance policies (as provided in Paragraph 9 of Article III), Leasing Commissions (as provided in Paragraph 2 of Article III), and other expenses, levies or

charges, including the Management Fee (as defined in Article V hereof), incurred in connection with the Railway Equipment and the operation and leasing thereof (all of which shall hereinafter be sometimes collectively referred to as the "Expenses") which are not reimbursed by lessees. Customer agrees to pay invoices for maintenance, repair and modification work in accordance with Paragraph 7 of Article III. The Expenses shall not include, however, insurance premiums as provided herein, and excess empty mileage charges which may be attributable to the Railway Equipment and which are not reimbursed by lessees, which shall be paid by TRMC.

3. Customer agrees to pay a portion of the aggregate ad valorem, gross receipts, property, or similar taxes levied against all tank cars (including the Railway Equipment) managed or owned by TRMC (the "TRMC Fleet") in an amount equal to the percentage which the Lease Fees (as defined in Paragraph 1 of Article III) earned by the Railway Equipment are of the gross rental and service charges earned by all tank cars in the TRMC Fleet. Customer further agrees that TRMC may withhold an amount equal to three percent (3%) of the Lease Fees (said percentage to be adjusted annually) toward payment of ad valorem or similar taxes on the Railway Equipment.

4. If the Lease Fees (as defined in Paragraph 1 of Article III) earned by the Railway Equipment are less than the Expenses incurred or reasonably foreseeable in connection with the operation and management of the Railway Equipment hereunder, TRMC will so advise the Customer in the Quarterly Report provided for under Article III, Paragraph 8 hereof, including the amount of such deficiency and, if requested by TRMC, Customer will remit to TRMC within ten days of receipt of the Quarterly Report the amount of such deficiency.

5. Customer agrees to cooperate fully with TRMC and to provide all assistance reasonably requested by TRMC to carry out its obligations hereunder. This shall include, subject to the provisions of Article VI hereof, full cooperation and assistance in any lawsuit or other similar matter or proceeding before any court or agency.

#### ARTICLE III TRMC's Covenants and Responsibilities

In consideration of the Management Fee provided for hereunder, TRMC agrees to utilize reasonable time and efforts to:

1. Subject to the provisions of Paragraph 10 below, collect (i) the rental and service charges earned by the Railway Equipment (the "Lease Fees") and (ii) any excess empty mileage charges attributable to the Railway Equipment; provided that the term "Lease Fees" shall not include any such excess empty mileage charges.

2. Use its best efforts to obtain leases for the Railway Equipment, and maintain the Railway Equipment under lease throughout the term of this Agreement at Customer's expense. TRMC shall execute any such leases, in TRMC's sole discretion, either in the name of Customer or in the name of TRMC but for the account and on behalf of Customer. As compensation for any leases or subleases of the Railway Equipment secured by TRMC, TRMC shall be entitled to an amount equal to five percent (5%) of the Lease Fees pertaining to such railcars ("Leasing Commissions"). Leasing Commissions shall be accounted for in each Quarterly Report as an expense payable by Customer.

3. Comply with the terms and conditions of any lease agreements to which the Railway Equipment is subject during the term hereof. It is understood, however, that before TRMC shall be obligated to comply with any lease not negotiated by TRMC or any amended terms and conditions of any such lease, such lease and/or amendments must be approved, in writing, by TRMC.

4. Make all required registration and other filings with the Interstate Commerce Commission, the Association of American Railroads, the Department of Transportation and any other governmental or industry authority; provided, however, that TRMC will be under no obligation to keep in force on behalf of Customer approval for the use of the Railway Equipment pursuant to AAR Circular OT-5 or subsequent directives governing the use of privately owned railcars other than tank cars.

5. File applicable ad valorem and other tax returns and pay, from the Lease Fees or from funds advanced by Customer, all such taxes due, in accordance with the provisions of Article II, Paragraph 3. TRMC may, however, retain during each calendar year of the term of this Agreement, an amount equal to three percent (3%) of the Lease Fees received during that calendar year to cover such taxes, but will, within 90 days following the end of each calendar year, remit to Customer any amounts not required for such taxes.

6. Maintain adequate books and records sufficient to account properly for the Lease Fees, Expenses and other such items applicable to the Railway Equipment.

7. Contract for or otherwise obtain all repair and/or maintenance and/or modification work on the Railway Equipment considered necessary by TRMC, such work to be paid for by TRMC, and billed monthly with supporting details to the Customer at TRMC's cost plus 15%. TRMC will audit and pay railroad repair bills as incurred in accordance with prevailing rates and provisions of the Interchange Rules of the A.A.R., and will bill Customer monthly for all such railroad repair charges. Customer agrees to pay such invoices within 10 days of receipt.

8. Provide periodic reports to Customer on a quarterly basis (the "Quarterly Reports") which shall set forth the Lease Fees derived from the use of the Railway Equipment, as well as Expenses incurred or that are reasonably foreseeable in connection with the Railway Equipment. The Quarterly Reports shall be for the quarters ending March 31, June 30, September 30 and December 31, and will be delivered to Customer as promptly as is reasonably possible. Should the Lease Fees exceed the Expenses incurred in connection with the Railway Equipment (less any amounts paid with respect to Expenses for which Customer has been invoiced by TRMC), payment of the excess (except for any amount retained under Paragraph 5 and this Paragraph 8 of Article III) shall accompany the Quarterly Report. Should Expenses incurred or reasonably foreseeable (less any amounts paid with respect to Expenses for which Customer has been invoiced by TRMC) exceed the Lease Fees for the period in question, the Quarterly Report will set forth the amount to be remitted by Customer to TRMC, if requested. It is understood that, except as may be specifically provided herein to the contrary, TRMC shall be under no obligation to advance funds for payment of the Expenses, regardless of the results of the nonpayment thereof. It is further understood that TRMC shall have the authority to retain portions of Lease Fees that exceed actual Expenses incurred to cover future Expenses that can be reasonably foreseen to exceed

Lease Fees for the applicable future period or periods. Such retention of Lease Fees shall be accomplished on a reasonable basis and in such a manner as to minimize the effect that such retention shall have on cash distributions, if any, made to Customer. No assessment for cash deficiencies shall be made to Customer, however, to the extent of unremitted mileage credits held by TRMC.

9. TRMC will use its best efforts to maintain such insurance coverage as shall be reasonably available to protect the interest of Customer against personal liability, including property damage and bodily injury, and loss of or damage to the Railway Equipment. TRMC may effect such insurance coverage through blanket policies insuring TRMC and other property owned, leased or managed by TRMC. All such insurance policies shall name Customer as the insured or an additional insured with respect to the Railway Equipment and provide at least thirty (30) days notice prior to cancellation.

10. Reasonably pursue any and all warranties or other claims against manufacturers, users, lessees, railroads and other parties on behalf of Customer. Such duties will include the filing of suit, at the expense of Customer, if requested by Customer in writing, unless TRMC determines in good faith and for bona fide business reasons that it cannot do so, in which case TRMC will so advise Customer in writing within five (5) days of receipt of Customer's request.

#### ARTICLE IV Term and Termination

1. Subject to the provisions set forth herein, this Agreement shall be effective commencing with the first day on which a railroad tank car included in the Railway Equipment is delivered to TRMC, and shall automatically terminate ten years from such date.

2. Except as otherwise provided in this Agreement, the Customer may terminate this Agreement without cause by giving TRMC written notice of termination not less than three months prior to the termination date designated in such notice; provided, however, if Customer shall owe TRMC any amounts under this Agreement, the Customer may not terminate this Agreement as to any of the Railway Equipment until all such amounts have been paid. TRMC shall, at its option, be entitled to continue to lease and otherwise operate and manage the Railroad Equipment and retain any and all Lease Fees received therefrom until all amounts outstanding and/or subsequently incurred in connection with such continued leasing of the Railroad Equipment have been paid.

3. Notwithstanding the provisions of Paragraph 2 Article II and Paragraph 1 Article III, as of the date of termination, TRMC may deduct any outstanding unreimbursed excess empty mileage charges for Customer's cars from any outstanding surplus mileage allowance credits earned by such cars and will remit the remaining surplus credits if any to Customer.

4. Except as otherwise provided in Article IV, Paragraph 4, should either party default under its obligations set forth herein, the sole and exclusive remedy of the other party shall be to advise the defaulting party of such default, and should such default not be corrected within 30 days of such notification, the aggrieved party may, at its option, immediately terminate this Agreement; provided, that the Customer shall (in addition to the



foregoing) preserve and retain any rights the Customer might have at law or in equity if TRMC defaults in its obligations under Article III, Paragraph 9, or if TRMC's actions constitute gross negligence or willful misconduct.

5. Neither TRMC nor the Customer shall, by reason of the expiration or the termination of this Agreement in accordance with the terms and provisions hereof, be liable to the other for compensation, reimbursement or damages, either on account of present or prospective profits or on account of expenditures, investments or commitments made in connection therewith or in connection with establishment, development or maintenance of the business of goodwill of TRMC or the Customer, or on account of any other cause or thing whatsoever; provided, however, that such expiration or termination shall not affect the rights or liabilities of the parties with respect to any indebtedness owing by either party to the other or any obligations or liabilities of any party to the other hereunder arising and of any events occurring prior to such expiration or termination; and further provided, that such expiration or termination shall be subject to any then existing lease or leases of the Railway Equipment, and TRMC, at its option, shall be entitled to continue, pursuant and subject to the terms and conditions of this Agreement, the management and control of any of the Railway Equipment covered by such lease or leases as may be necessary for TRMC to comply with such lease or leases, including the right to retain the Lease Fees, Management Fee and other sums as provided for herein, until the expiration or termination of such lease or leases. Except as may be otherwise expressly set forth herein, upon the expiration or termination of this Agreement, all obligations of the parties shall immediately cease. TRMC shall, however, provide reasonable assistance to Customer in transferring to Customer, all at Customer's expense and upon Customer's request, all records, data and other information relating to the Railway Equipment and in assisting Customer in the implementation of such records, data and information into Customer's operations.

#### ARTICLE V Management Fee

In consideration of the services of TRMC hereunder, Customer shall pay to TRMC a management fee of \$25.00 per car per month for each railway car included in the Railway Equipment (the "Management Fee"). The Management Fee shall be billed to Customer monthly and is payable within ten days of receipt; provided, however, that TRMC at its option may elect to bill Customer for Management Fees quarterly in connection with the Quarterly Reports provided in Paragraph 8 of Article III. TRMC shall retain, for its own account, any excess empty mileage charges collected for each railway car included in the Railway Equipment.

#### ARTICLE VI Legal Actions

TRMC will give written notice to Customer at least 10 days prior to the institution of legal proceedings by TRMC or not more than 10 days after being served with process in any legal proceedings against TRMC involving the Railway Equipment. Unless otherwise directed in writing by Customer, TRMC may, at its option, institute or defend, in its own name or in the name of Customer, or both, but not against each other, and in all events at the expense of the Customer, any and all legal actions or proceedings it considers necessary hereunder, including those to collect charges, rents, claims or other income for the Railway

Equipment, or lawfully o necessary hereunder, including those to collect charges, rents, claims or other income for the Railway Equipment, or lawfully o necessary hereunder, including those to collect charges, rents, claims or other income for the Railway Equipment, or lawfully otions to protest or litigate to a final decision in any appropriate Court or other forum any violation, order, rule, regulation, suit, claim or other matter affecting the Railway Equipment. TRMC shall keep Customer currently advised of all legal proceedings, and Customer reserves the right to direct TRMC to terminate (where upon TRMC agrees to terminate) any litigation brought pursuant to the foregoing authority.

#### ARTICLE VII Assignment

This agreement is not assignable by either party except with the written consent of the other party; provided, however, (a) this Agreement together with the Railway Equipment may be transferred by Customer to his estate, heirs or devisees or to any purchaser at a foreclosure sale where this Agreement and the related Railway Equipment are sold as collateral so long as such sale complies with applicable federal or state securities laws, (b) Customer may grant a security interest in, or assign its rights under, this Agreement to a bank or other financial institution in connection with a bona fide financing arrangement involving the Railway Equipment, and (c) this Agreement may be assigned by TRMC in connection with the merger or consolidation of TRMC into another corporation or as part of the sale of substantially all of the assets of TRMC, provided that notice of such merger, consolidation, or sale shall be given to Customer prior to the effective date thereof.

#### ARTICLE VIII Indemnification

1. Customer and TRMC jointly and severally acknowledge, agree and covenant that TRMC is entering into this contract as an independent contractor, and neither party hereto shall take any action to alter such legal relationship. Customer shall have no right or authority, and shall not attempt, to enter into contracts or commitments in the name, or on behalf, of TRMC, or to bind TRMC in any manner or respect whatsoever. Further, Customer agrees to indemnify and hold TRMC harmless from any and all claims, demands, causes of action (at law or in equity), costs, damages, reasonable attorney's fees, expenses and judgments, which may hereafter be asserted by any third party based on or relating to the Railway Equipment or the operation, including the leasing, thereof, except for all claims, demands, causes of action (at law or in equity), costs, damages, reasonable attorney's fees, expenses and judgments which may hereafter be asserted by any third party based on or relating to actions taken by, or inactions of, TRMC in connection with the Railway Equipment, which actions or inactions were not authorized hereunder or were authorized hereunder but performed in a manner constituting gross negligence or willful misconducts; provided, that TRMC shall indemnify and hold harmless Customer from all claims, demands causes of action (at law or in equity), damages, reasonable attorney's fees, expenses and judgments which may be asserted hereafter by any third party based on or relating to any of the aforesaid actions or inactions of TRMC in connection with the Railway Equipment.

2. TRMC shall not be liable for any damage to the Railway Equipment caused by any commodity loaded therein. To the extent that any remedies under any applicable lease exist against the lessees of the Railway Equipment suffering such damage, TRMC may pursue such remedies in accordance with Paragraph 10 of Article III.

#### ARTICLE IX Additional Agreements

1. Each party hereto shall promptly and duly execute and deliver to the other party such further documents, assurances, releases and other instruments, and take such further actions, including any necessary filings and the execution of a power of attorney of Customer, as the other party may reasonably request, in order to carry out more fully the intent and purpose of this Agreement and to indicate the ownership of the Railway Equipment during the continuance and upon termination of this Agreement.

2. It is understood that upon the expiration or termination of this Agreement as to any or all of the Railway Equipment, Customer shall no longer be entitled to use the Recording and UMLER Car Initials and Numbers and other designations (the "Designations") that are presently the property of TRMC. Accordingly, Customer agrees that it will promptly undertake upon such expiration or termination, at Customer's expense, all steps necessary to change promptly the Designations on the Railway Equipment no longer included under the Agreement and to execute any and all documents requested by TRMC to transfer to TRMC any rights Customer may have acquired to such Designations. TRMC agrees to prepare, at TRMC's expense, documentation as, in its opinion, is necessary to change all Designations on the Railway Equipment from the Designations of TRMC to those adopted by Customer, and to provide reasonable assistance to Customer, at Customer's expense, in the filing of such documents.

3. Any notice or other communication by either party to the other shall be in writing, and shall be deemed to have been duly given if either delivered personally or mailed, postage prepaid, registered or certified mail, addressed as follows:

TRMC: Trinity Railcar Management Company  
P. O. Box 10587  
Dallas, Texas 75207

Customer: Robert R. Wallace  
30 1/2 Highland Park Village  
Suite 12  
Dallas, Texas 75205

or to such other address, and to the attention of such other person or officer as either party may designate to the other in writing as provided by this Paragraph.

4. The Customer or his authorized representative(s) shall be entitled to inspect the books and records of TRMC applicable to the Railway Equipment at any reasonable time during the office hours of TRMC.

5. TRMC hereby confirms that it will act as agent of Customer in entering into and performing all obligations and duties of the lessor under any lease of the Railway Equipment and hereby assigns to Customer all rights of the lessor under any such lease, including any rights of indemnification of the lessor thereunder; provided, that such assignment shall not affect or modify the relationship between, or the respective rights, obligations, and duties of, TRMC and Customer pursuant to this Agreement.

6. This Agreement contains the entire agreement of the parties hereto pertaining to the management and operation of the Railway Equipment. Except as otherwise provided herein, this Agreement may not be modified or amended, except by express, written agreement signed by both parties hereto. Any waiver of any obligation of either party hereto shall not be construed as a continuing waiver of any such obligation under any provision hereof.

7. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of, and be enforceable by, the heirs, administrators, executors, successors and assigns, if any, of the parties hereto, subject to the provisions pertaining to the assignment hereof set forth in Article VII.

8. This Agreement shall be construed in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, the parties have hereunto set their names, effective this 15 day of March, 1983.

TRINITY RAILCAR MANAGEMENT COMPANY

By Richard J. Brown  
Executive Vice President

CUSTOMER  
Robert R. Wallace  
Robert R. Wallace

STATE OF TEXAS     )  
                              )  
COUNTY OF DALLAS )

SUBSCRIBED AND SWORN TO BEFORE ME by the aforesaid Robert R. Wallace on the is 15 day of March, 1983, to certify which witness my hand and seal of office.

Martha A. Hodges  
Martha A. Hodges, Notary Public  
State of Texas

My Commission Expires:  
10-31-84